COMPOS MENTIS

A Practical Guide To Basic Law School Principles For The Prospective Law Student.

By Randy A. Wright J.D.

I dedicate this book to the memory of my grandfather,Grant Brown, a great attorney, whose accomplishments inspire me to this day.

Table of Contents

Introduction..... 6.
About the Author..... 7.
Chapter 1: *The Art of Legal Reading*..... 8.
I. Case Law Method..... 8.
Statutory Law..... 9.
Case Law..... 9.
II. Case Citation..... 10.
III. Methodology of Case Reading..... 11.
Asahi Metal Industry Co. v. Superior Court of California.. 12.
Chapter 2: *The Art of Legal Writing*..... 27.
I. Legal Writing Structure..... 28.
II. Methods of Adding Emphasis For Law School Exams..... 28.
Chapter 3: Socratic Method—Quest To Find the Hidden Ball..... 30.
Chapter 4: Outlining—Roadmapping the Cummulative Course to Achieve the successful exam answer..... 31.
Chapter 5: Understanding the Curve..... 32.
Chapter 6: Approaching Your Professor After Class..... 33.
Chapter 7: Register for Barbri Your First Year, and Career Services... 34.
Chapter 8: Conclusion..... 35.

I. Introduction.

You have made the life changing decision to go to law school. You've successfully completed the L.S.A.T. applied to the schools, and have been accepted, hopefully, by the institution of your choice. Let me be the first one to congratulate you on making such a monumental decision. Deciding to go to law school is not an easy decision to make. Obtaining a legal education is a time consuming endeavor, which can be extremely stressful; but, is completely "doable", and is well worth the effort.

The purpose of this document is to provide the up and coming law student with a guide to the basic skills that a student must possess, in order to successfully complete law school, and obtain that coveted Juris Doctor. This guide is not meant as an exhaustive list of every skill that a student will need to develop to complete law school. Rather, it is to provide a roadmap to building basic skills, and learning how to find the other skills, which are necessary to the successful completion of law school.

The meaning of the Latin Phrase, which is the main title of this book, is Command of the Mind. During my ascent to becoming a lawyer, I had no prior experience with the legal education system. I found myself needlessly stressed, because I didn't know what resources were available to me, and most of the guides provided by the law school were confusing, expensive; or, worse yet, both!

Therefore, I decided to write this guide, using the resources I eventually found, to provide a no cost guide to the up and coming law student; thereby providing that student with "command" of his or her "mind" by having a grasp of some of the basic, fundamental skills needed to successfully complete their legal education.

About the Author:

Randy Wright is a licensed attorney in the State of Texas who graduated from Ave Maria School of Law in May of 2011. He is the former Casey Chapter Justice of Phi Alpha Delta Law Fraternity International, and is a practicing attorney in the State of Texas.

Randy had no prior experience with or knowledge of the law school educational system before attending law school. He found that most of the guides to the basic skills needed for law school were either unclear, expensive, or both! Therefore, he decided to compose a basic guide, illustrating facts and resources which he wished were more readily available to him, at the time he was entering law school. He then decided that he would provide this information to the public for free, by making this document available through the Internet Archive:Digital Library.

Chapter 1: The Art of Legal Reading.

"Law school is easy! All you have to do is read and write, you've done that since before you went to law school.", a non-law student friend of mine, who shall remain unnamed, said to me upon my return home over the Christmas Holiday.

My friend was partially correct, and partially incorrect. It is true that law school consists of a lot of reading and writing. It is also true that I had done a lot of reading and writing throughout my academic career. However, reading and writing (which will be covered in the next chapter), for law school is completely different than for any other academic pursuit. There are two fundamental reasons for this: (1) law school reading requires the reader to find specific, technical laws and rules, and understand how to apply those laws and rules to a specific set of facts. In other words, a law student must be able to discern the important topics and issues from a dense and voluminous court opinion, and understand how to apply those topics and issues to any set of given facts; and, (2) law school reading requires the law student to analyse the rules and court decisions, apply them to an unrelated set of facts, and predict the outcome of any potential legal issues, based on the holdings of the court.

In order to accomplish the two fundamental requirements of successful law school reading, one must be able to understand how to determine which court the case was heard in, the citation of the case, and from that determine whether the case is "binding", or "persuasive". I'll explain the differences between whether a particular case is "binding" or "persuasive" later in this chapter. The first objective is explaining what the case law method is, and the court reporter citation system.

I. Case law Method.

There are two primary sources of law in the United States: (1) Legislative, or Statutory law; and, (2) Case Law.

Statutory law is the codification of legislative acts

proscribing certain conduct by demanding or prohibiting something or declaring the legality of certain, particular acts.[1]

Case law, on the other hand, are legal principles enunciated and embodied in judicial decisions derived from the application of particular areas of law to the facts of individual cases. Moreover, case law is a dynamic and constantly developing body of law.[2]

In other words, each case contains a summary of the facts in contention, as well as, the holding and dicta of a case. Holdings are the final decisions that a court makes, with respect to the issue, or legal question involved in the particular case; while dicta is an explanation of the judge's reasoning in deciding the outcome of the issue.[3]

Your first year law school courses will heavily emphasise the reading, and dissection of various bodies of case law throughout the United States, and in some cases, from English judicial opinions.

This reading and dissection of case law is known as the case law method, or case method. The case method is a system of instruction or study of law focused upon the analysis of court opinions rather than lectures and textbooks.[4] The case method was developed by Professor Christopher Langdell, who viewed the law as a science, and believed that the study of law should be studied as a science.[5]

Now that we have differentiated between statutory law and case law, and have defined the case method; we must now actually examine the method of reading cases. The first step in reading a case, is being able to ascertain in front of

---

[1] Definition of Case Law, Free legal dictionary: http://legal-dictionary.thefreedictionary.com/Case+Law (last accsessed 2/07/2013, at 11:29 A.M.).
[2] *Ibid.*
[3] *Ibid.*
[4] Definition of Case Method, Free legal dictionary: http://legal-dictionary.thefreedictionary.com/Case+Method (last accsessed 2/07/2013 at 11:45 A.M.).
[5] *Ibid.*

which court the case was heard, when the case was decided, and what level of the jurisprudential system the decision comes from.

II. *Case Citation*.

Case law is categorized based upon its case citation. The case citation will provide the reader with some critical and basic information. The citation will state the year in which the opinion was decided, the court which made the decision, and the reporter and page number in which the case may be found. The reporter is merely the name of the log in which a jurisdiction records its cases.

For example, ***Marbury v. Madison*** 5 U.S. 137 (1803), is the case citation for a famous United States Supreme Court case. You can determine that it is a Supreme Court case by the name of the reporter, in which it is recorded; in this case, U.S., which represents the United States Supreme Court's reporter. Furthermore, you can see that the case was decided in the year 1803, because the year is included in the parenthesis. In addition, one can see that it is in the fifth volume of the Supreme Court's reporter, and will begin on page 137 of that volume.

Thus, from the citation alone, you are able to see that the opinion was decided by the highest court in the land, meaning that the decision will be binding on all lower courts; you can also be alerted to the fact that you may need to determine whether or not the case law is still applicable. You are alerted to this fact due to the age of the case, as indicated by the year of its decision, (1803).[6]

In addition, it is important to examine the case citation to determine whether the opinion is binding, or merely persuasive. A case is binding if it was decided by a court in

[6] Determining whether a case is still binding, or not, is known as "shepardizing" a case. When you're in law school you will have access to Lexisnexis®. This service will have a legend of symbols, explaining what the symbols mean. For instance, if a case has a red octagonal symbol next to the case name, then you will know that the case has been overruled by a more recent case. You can see which case overruled the previous one by clicking on the symbol itself. This is known as "shepardizing" a case.

the jurisdiction in which the case was heard; or, if it was heard by a higher court, within the appellate jurisdiction of that state.

With respect to federal district courts within federal circuits, several states will fall into a particular appellate circuit. Thus a case from a different circuit (referred to as a foreign court, meaning from a different state, not a different country), or a different district court within the same circuit, then that case is merely persuasive. That is, if you are basing your argument on a case, then you may cite persuasive cases only for bolstering your argument, you cannot actually base your argument on a persuasive authority.

Conversely, if the case is decided in a court from the same state, or the same district within the appellate circuit jurisdiction, then you may base your argument on that case, as it is considered "binding" law within that particular jurisdiction.

Thus, for example, ***Snoopy v. Red Baron*** 199 F. Supp. 999-Dist. Court, ED Texas 1997; and, ***Snoopy v. Iffy Insurance Co.*** 762 F. Supp. 13- Dist. Court, WD Louisiana 2005. You can see from these two fictitious cases, that both are federal court cases, but *Snoopy v. Red Baron* was decided in the Eastern District of Texas, and thereby would not be binding law in the Western District of Louisiana,which is where *Snoopy v. Iffy Ins' Co.* was decided. Therefore, each case could be used as persuasive authority, in the opposite district, but would not be considered binding law.[7]

III. *Methodology of Case Reading*.

Now that we have explored how to interpret a case's citation, the next important step is actually reading the case. As previously mentioned, reading judicial opinions is not like reading any other type of document. There is a formulaic

[7] It is important to note that, unlike Supreme Court cases, federal courts of appeals cases are not compiled in an official reporter. Rather, all federal courts of appeals decisions are cited in *West's Federal Reporter*.

approach to ascertaining the important information from the case. For your benefit, I am affixing an excerpt of a real case opinion under this paragraph, and will highlight the important information in different colors; and then explain the colors and information following the case.

480 U.S. 102 (1987)

ASAHI METAL INDUSTRY CO., LTD.

v.

SUPERIOR COURT OF CALIFORNIA, SOLANO COUNTY (CHENG SHIN RUBBER INDUSTRIAL CO., LTD., REAL PARTY IN INTEREST)

No. 85-693.
Supreme Court of United States.
Argued November 5, 1986
Decided February 24, 1987
CERTIORARI TO THE SUPREME COURT OF CALIFORNIA
105*105 *Graydon S. Staring* argued the cause for petitioner. With him on the briefs was *Richard D. Hoffman.*
Ronald R. Haven argued the cause and filed a brief for respondent.[*]
George E. Murphy filed a brief for the California Manufacturers Association as *amicus curiae* urging affirmance.

JUSTICE O'CONNOR announced the judgment of the Court and delivered the unanimous opinion of the Court with respect to Part I, the opinion of the Court with respect to Part II-B, in which THE CHIEF JUSTICE, JUSTICE BRENNAN, JUSTICE WHITE, JUSTICE MARSHALL, JUSTICE BLACKMUN, JUSTICE POWELL, and JUSTICE STEVENS join, and an opinion with respect to Parts II-A and III, in which THE CHIEF JUSTICE, JUSTICE POWELL, and JUSTICE SCALIA join.

This case presents the question whether the mere awareness on the part of a foreign defendant that the components it manufactured, sold, and delivered outside the United States

would reach the forum State in the stream of commerce constitutes "minimum contacts" between the defendant and the forum State such that the exercise of jurisdiction "does not offend `traditional notions of fair play and substantial justice.' " *International Shoe Co. v. Washington*, 326 U. S. 310, 316 (1945), quoting *Milliken v. Meyer*, 311 U. S. 457, 463 (1940).

I

On September 23, 1978, on Interstate Highway 80 in Solano County, California, Gary Zurcher lost control of his Honda motorcycle and collided with a tractor. Zurcher was severely injured, and his passenger and wife, Ruth Ann Moreno, was killed. In September 1979, Zurcher filed a product liability action in the Superior Court of the State of 106*106 California in and for the County of Solano.

Zurcher alleged that the 1978 accident was caused by a sudden loss of air and an explosion in the rear tire of the motorcycle, and alleged that the motorcycle tire, tube, and sealant were defective.

Zurcher's complaint named, *inter alia*, Cheng Shin Rubber Industrial Co., Ltd. (Cheng Shin), the Taiwanese manufacturer of the tube. Cheng Shin in turn filed a cross-complaint seeking indemnification from its codefendants and from petitioner, Asahi Metal Industry Co., Ltd. (Asahi), the manufacturer of the tube's valve assembly. Zurcher's claims against Cheng Shin and the other defendants were eventually settled and dismissed, leaving only Cheng Shin's indemnity action against Asahi.

California's long-arm statute authorizes the exercise of jurisdiction "on any basis not inconsistent with the Constitution of this state or of the United States." Cal. Civ. Proc. Code Ann. § 410.10 (West 1973).

Asahi moved to quash Cheng Shin's service of summons, arguing the State could not exert jurisdiction over it consistent with the Due Process Clause of the Fourteenth Amendment.

In relation to the motion, the following information was submitted by Asahi and Cheng Shin. Asahi is a Japanese corporation. It manufactures tire valve assemblies in Japan and sells the assemblies to Cheng Shin, and to several other tire manufacturers, for use as components in finished tire tubes. Asahi's sales to Cheng Shin took place in Taiwan. The shipments from Asahi to Cheng Shin were sent from Japan to Taiwan....

Cheng Shin alleged that approximately 20 percent of its sales in the United States are in California. Cheng Shin purchases valve assemblies from other suppliers as well, and sells finished tubes throughout the world.
107*107

In 1983 an attorney for Cheng Shin conducted an informal examination of the valve stems of the tire tubes sold in one cycle store in Solano County. The attorney declared that of the approximately 115 tire tubes in the store, 97 were purportedly manufactured in Japan or Taiwan, and of those 97, 21 valve stems were marked with the circled letter "A", apparently Asahi's trademark. Of the 21 Asahi valve stems, 12 were incorporated into Cheng Shin tire tubes.

The store contained 41 other Cheng Shin tubes that incorporated the valve assemblies of other manufacturers. Declaration of Kenneth B. Shepard in Opposition to Motion to Quash Subpoena, App. to Brief for Respondent 5-6. An affidavit of a manager of Cheng Shin whose duties included the purchasing of component parts stated: " `In discussions with Asahi regarding the purchase of valve stem assemblies the fact that my Company sells tubes throughout the world and specifically the United States has been discussed.

I am informed and believe that Asahi was fully aware that valve stem assemblies sold to my Company and to others would end up throughout the United States and in California.' " 39 Cal. 3d 35, 48, n. 4, 702 P. 2d 543, 549-550, n. 4 (1985).

An affidavit of the president of Asahi, on the other hand,

declared that Asahi " `has never contemplated that its limited sales of tire valves to Cheng Shin in Taiwan would subject it to lawsuits in California.' " *Ibid.* The record does not include any contract between Cheng Shin and Asahi. Tr. of Oral Arg. 24.

Primarily on the basis of the above information, the Superior Court denied the motion to quash summons, stating: "Asahi obviously does business on an international scale. It is not unreasonable that they defend claims of defect in their product on an international scale." Order Denying Motion to Quash Summons, *Zurcher* v. *Dunlop Tire & Rubber Co.*, No. 76180 (Super. Ct., Solano County, Cal., Apr. 20, 1983).

The Court of Appeal of the State of California issued a peremptory writ of mandate commanding the Superior Court to quash service of summons. The court concluded that "it 108*108 would be unreasonable to require Asahi to respond in California solely on the basis of ultimately realized foreseeability that the product into which its component was embodied would be sold all over the world including California." App. to Pet. for Cert. B5-B6.

The Supreme Court of the State of California reversed and discharged the writ issued by the Court of Appeal. 39 Cal. 3d 35, 702 P. 2d 543 (1985). The court observed: "Asahi has no offices, property or agents in California. It solicits no business in California and has made no direct sales [in California]." *Id.*, at 48, 702 P. 2d, at 549.

Moreover, "Asahi did not design or control the system of distribution that carried its valve assemblies into California." *Id.*, at 49, 702 P. 2d, at 549. Nevertheless, the court found the exercise of jurisdiction over Asahi to be consistent with the Due Process Clause.

It concluded that Asahi knew that some of the valve assemblies sold to Cheng Shin would be incorporated into tire tubes sold in California, and that Asahi benefited indirectly from the sale in California of products incorporating its components.

The court considered Asahi's intentional act of placing its components into the stream of commerce — that is, by delivering the components to Cheng Shin in Taiwan — coupled with Asahi's awareness that some of the components would eventually find their way into California, sufficient to form the basis for state court jurisdiction under the Due Process Clause.

We granted certiorari, 475 U. S. 1044 (1986), and now reverse.

II

A

The Due Process Clause of the Fourteenth Amendment limits the power of a state court to exert personal jurisdiction over a nonresident defendant.

"[T]he constitutional touchstone" of the determination whether an exercise of personal jurisdiction comports with due process "remains whether the defendant purposefully established `minimum contacts' in the 109*109 forum State." *Burger King Corp. v. Rudzewicz*, 471 U. S. 462, 474 (1985), quoting *International Shoe Co. v. Washington*, 326 U. S., at 316.

Most recently we have reaffirmed the oft-quoted reasoning of *Hanson v. Denckla*, 357 U. S. 235, 253 (1958), that minimum contacts must have a basis in "some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws." *Burger King*, 471 U. S., at 475.

"Jurisdiction is proper . . . where the contacts proximately result from actions by the defendant *himself* that create a `substantial connection' with the forum State." *Ibid.*, quoting *McGee v. International Life Insurance Co.*, 355 U. S. 220, 223 (1957) (emphasis in original).

Applying the principle that minimum contacts must be based on an act of the defendant, the Court in *World-Wide Volkswagen*

Corp. v. Woodson, 444 U. S. 286 (1980), rejected the assertion that a *consumer's* unilateral act of bringing the defendant's product into the forum State was a sufficient constitutional basis for personal jurisdiction over the defendant.

It had been argued in *World-Wide Volkswagen* that because an automobile retailer and its wholesale distributor sold a product mobile by design and purpose, they could foresee being haled into court in the distant States into which their customers might drive.

The Court rejected this concept of foreseeability as an insufficient basis for jurisdiction under the Due Process Clause. *Id.*, at 295-296.

The Court disclaimed, however, the idea that "foreseeability is wholly irrelevant" to personal jurisdiction, concluding that "[t]he forum State does not exceed its powers under the Due Process Clause if it asserts personal jurisdiction over a corporation that delivers its products into the stream of commerce with the expectation that they will be purchased by consumers in the forum State." *Id.*, at 297-298 (citation omitted).

The Court reasoned:

110*110 "When a corporation `purposefully avails itself of the privilege of conducting activities within the forum State,' *Hanson v. Denckla*, 357 U. S. [235,] 253 [(1958)], it has clear notice that it is subject to suit there, and can act to alleviate the risk of burdensome litigation by procuring insurance, passing the expected costs on to customers, or, if the risks are too great, severing its connection with the State. Hence if the sale of a product of a manufacturer or distributor . . . is not simply an isolated occurrence, but arises from the efforts of the manufacturer or distributor to serve, directly or indirectly, the market for its product in other States, it is not unreasonable to subject it to suit in one of those States if its allegedly defective merchandise has there been the source of injury to its owners or to others." *Id.*, at 297.

In *World-Wide Volkswagen* itself, the state court sought to base jurisdiction not on any act of the defendant, but on the foreseeable unilateral actions of the consumer. Since *World-Wide Volkswagen*, lower courts have been confronted with cases in which the defendant acted by placing a product in the stream of commerce, and the stream eventually swept defendant's product into the forum State, but the defendant did nothing else to purposefully avail itself of the market in the forum State.

Some courts have understood the Due Process Clause, as interpreted in *World-Wide Volkswagen*, to allow an exercise of personal jurisdiction to be based on no more than the defendant's act of placing the product in the stream of commerce.

Other courts have understood the Due Process Clause and the above-quoted language in *World-Wide Volkswagen* to require the action of the defendant to be more purposefully directed at the forum State than the mere act of placing a product in the stream of commerce.

The reasoning of the Supreme Court of California in the present case illustrates the former interpretation of *World-Wide Volkswagen.*

The Supreme Court of California held that, because the stream of commerce eventually brought 111*111 some valves Asahi sold Cheng Shin into California, Asahi's awareness that its valves would be sold in California was sufficient to permit California to exercise jurisdiction over Asahi consistent with the requirements of the Due Process Clause.

The Supreme Court of California's position was consistent with those courts that have held that mere foreseeability or awareness was a constitutionally sufficient basis for personal jurisdiction if the defendant's product made its way into the forum State while still in the stream of commerce. See *Bean Dredging Corp. v. Dredge Technology Corp.*, 744 F. 2d 1081 (CA5

1984); *Hedrick v. Daiko Shoji Co.*, 715 F. 2d 1355 (CA9 1983).

Other courts, however, have understood the Due Process Clause to require something more than that the defendant was aware of its product's entry into the forum State through the stream of commerce in order for the State to exert jurisdiction over the defendant.

In the present case, for example, the State Court of Appeal did not read the Due Process Clause, as interpreted by *World-Wide Volkswagen*, to allow "mere foreseeability that the product will enter the forum state [to] be enough by itself to establish jurisdiction over the distributor and retailer." App. to Pet. for Cert. B5. In *Humble v. Toyota Motor Co.*, 727 F. 2d 709 (CA8 1984), an injured car passenger brought suit against Arakawa Auto Body Company, a Japanese corporation that manufactured car seats for Toyota. Arakawa did no business in the United States; it had no office, affiliate, subsidiary, or agent in the United States; it manufactured its component parts outside the United States and delivered them to Toyota Motor Company in Japan.

The Court of Appeals, adopting the reasoning of the District Court in that case, noted that although it "does not doubt that Arakawa could have foreseen that its product would find its way into the United States," it would be "manifestly unjust" to require Arakawa to defend itself in the United States. *Id.*, at 710-711, quoting 578 F. Supp. 530, 533 (ND Iowa 1982). See also *Hutson v. Fehr Bros., Inc.*, 112*112 584 F. 2d 833 (CA8 1978); see generally *Max Daetwyler Corp. v. R. Meyer*, 762 F. 2d 290, 299 (CA3 1985) (collecting "stream of commerce" cases in which the "manufacturers involved had made deliberate decisions to market their products in the forum state").

We now find this latter position to be consonant with the requirements of due process. The "substantial connection," *Burger King*, 471 U. S., at 475; *McGee*, 355 U. S., at 223, between the defendant and the forum State necessary for a finding of minimum contacts must come about by *an action of*

the defendant purposefully directed toward the forum State. *Burger King, supra,* at 476; *Keeton v. Hustler Magazine, Inc.,* 465 U. S. 770, 774 (1984).

The placement of a product into the stream of commerce, without more, is not an act of the defendant purposefully directed toward the forum State. Additional conduct of the defendant may indicate an intent or purpose to serve the market in the forum State, for example, designing the product for the market in the forum State, advertising in the forum State, establishing channels for providing regular advice to customers in the forum State, or marketing the product through a distributor who has agreed to serve as the sales agent in the forum State. But a defendant's awareness that the stream of commerce may or will sweep the product into the forum State does not convert the mere act of placing the product into the stream into an act purposefully directed toward the forum State.

Assuming, *arguendo,* that respondents have established Asahi's awareness that some of the valves sold to Cheng Shin would be incorporated into tire tubes sold in California, respondents have not demonstrated any action by Asahi to purposefully avail itself of the California market. Asahi does not do business in California.

It has no office, agents, employees, or property in California. It does not advertise or otherwise solicit business in California. It did not create, control, or employ the distribution system that brought its valves to California. Cf. *Hicks v. Kawasaki Heavy Industries,* 113*113 452 F. Supp. 130 (MD Pa. 1978).
There is no evidence that Asahi designed its product in anticipation of sales in California. Cf. *Rockwell International Corp. v. Costruzioni Aeronautiche Giovanni Agusta,* 553 F. Supp. 328 (ED Pa. 1982). On the basis of these facts, the exertion of personal jurisdiction over Asahi by the Superior Court of California[*] exceeds the limits of due process.

B

The strictures of the Due Process Clause forbid a state court to exercise personal jurisdiction over Asahi under circumstances that would offend " `traditional notions of fair play and substantial justice.' " *International Shoe Co. v. Washington*, 326 U. S., at 316, quoting *Milliken v. Meyer*, 311 U. S., at 463.

We have previously explained that the determination of the reasonableness of the exercise of jurisdiction in each case will depend on an evaluation of several factors. A **court must consider the burden on the defendant, the interests of the forum State, and the plaintiff's interest in obtaining relief.**

(emphasis added. Note that this is the beginning of the test to resolve the legal question at hand).

It must also weigh in its determination "the interstate judicial system's interest in obtaining the most efficient resolution of controversies; and the shared interest of the several States in furthering fundamental substantive social policies." *World-Wide Volkswagen*, 444 U. S., at 292 (citations omitted).
114*114

A consideration of these factors in the present case clearly reveals the unreasonableness of the assertion of jurisdiction over Asahi, even apart from the question of the placement of goods in the stream of commerce.

Certainly the burden on the defendant in this case is severe. Asahi has been commanded by the Supreme Court of California not only to traverse the distance between Asahi's headquarters in Japan and the Superior Court of California in and for the County of Solano, but also to submit its dispute with Cheng Shin to a foreign nation's judicial system. The unique burdens placed upon one who must defend oneself in a foreign legal system should have significant weight in assessing the reasonableness of stretching the long arm of personal

jurisdiction over national borders.

When minimum contacts have been established, often the interests of the plaintiff and the forum in the exercise of jurisdiction will justify even the serious burdens placed on the alien defendant. In the present case, however, the interests of the plaintiff and the forum in California's assertion of jurisdiction over Asahi are slight.

...

III

Because the facts of this case do not establish minimum contacts such that the exercise of personal jurisdiction is consistent with fair play and substantial justice, the judgment of the Supreme Court of California is reversed, and the case is remanded for further proceedings not inconsistent with this opinion.

It is so ordered.

(Concurring and dissenting opinions omitted).

As you can clearly see, even this edited version of a case opinion is dense, and can be difficult to read; especially for a first year law student, who does not know what to look for. I must admit, that when I started law school, reading case laws was a daunting task.

However, there is a method to reading the case, and once you examine cases through that method, interpreting them becomes second nature. The method for reading a case can be summarized by the pneumonic IRAC. That is, Issue, Rule, Analysis, and Conclusion.

The first thing you should look for, when reading a case, is the legal issue. The issue is the legal question that the court is seeking to resolve. Issues can usually be found by looking for the word “Whether”. However, the buzzword of “Whether” is not always used. For example, a court may state

the issue as: "This case presents the question of the legality of enforcing the terms of a contract when the writing has been lost through no fault of either party."

In such a case as this, or when you cannot readily ascertain the issue, take a step back, and ask yourself "What does the court need to resolve in this case?"—examining the case through that lens will make spotting the issue much simpler.

With regards to the *Asahi* excerpt, you can see that I highlighted the issue in orange. Thus, you can see that the question that the court must resolve is, whether a non resident defendant's mere awareness that good or services it sold, outside of the United States, might actually reach the United States, and later causes injury to a plaintiff, is enough of a "minimum contact" for a court to claim jurisdiction over the defendant, without offending the Due Process Clause ("as tested by traditional notions of fair play and substantial justice"). Or, in even simpler terms, can the court exercise jurisdiction over this particular defendant.

Once you have determined what the court needs to resolve, the next step is to examine the pertinent facts which gave rise to the issue in the first place. In the *Asahi* excerpt, I highlighted the pertinent facts in yellow.

One can see that the case arises out of a motorcycle accident where the plaintiff was injured, and his wife was killed. The cause of the accident was, allegedly, a faulty valve made by the defendant. The defendant did not have any offices in the forum state, nor did it directly market its products in the United States. Rather, it sold its parts to other foreign manufacturers who then used those parts in a completed product, which was marketed to the United States.

Thus, those facts show that the defendant is disputing the court's ability to exercise jurisdiction over the defendant, as the defendant doesn't directly market in the United States, and thus has not subjected itself to United

States law. While the company is aware that its products are sold in the United States, it claims that mere knowledge without direct action (such as marketing) is not enough grounds for the court to claim jurisdiction over them.

Now that you have determined what the issue is, and the facts that gave rise to that issue, the next step is to find the legal rules which are involved in the case. You can see that I highlighted the rules in teal.

Rules can usually be found by searching for buzzwords such as: "Under" "When" etc. It's not always laid out with those words, but examining a case asking "How do I resolve the legal question?", will make the rules easier to find.

The rules in the case lay out the proper scope and function of ascertaining whether a court has the power to exercise jurisdiction over a foreign corporation. Thus, if the exercise of personal jurisdiction over the foreign company would offend traditional notions of "Fair Play and Substantial Justice", then the court cannot exercise personal jurisdiction over the individual.[8]

"Fair Play and Substantial Justice" are rather vague terms. However, by parsing through the rules, you'll find that the court has established a "test" for determining whether exercise of jurisdiction would violate Due Process or not.

The test in this case is as follows: (1) The Burden on the defendant; (2) The interests of the forum state; (3) The plaintiff's interest in obtaining relief; and, (4) The judicial system's interest in obtaining the most efficient and reasonable resolution.

Now that you are aware of the rule, the next step, and by far the most important one, is analyzing the test to the facts. You accomplish this by reading the decisions of the lower courts (Which I have highlighted in pale green), and by examining the court's reasoning, which is known as dicta

[8] Personal Jurisdiction is the court's ability to exercise power over a certain individual or company.

(which I have highlighted in Salmon).

In the *Asahi* case, the court examines the lower courts decision, and applies the facts of the case to the rules that they laid out. The court then reasoned that because Asahi did not actively market the products in the United States, the burden on them was too great, and the interests of efficiently resolving the case would not be served by exercising personal jurisdiction over the defendant.

Now that you have analyzed the case, then you look for the court's conclusions(which I have highlighted in bright green).

Holdings are usually found by searching for the buzz words: "Because", "Thus", "Therefore" etc. However, the holding may not always be laid out with buzzwords. Ask yourself "What is the final resolution of the case?". Examining the case in that fashion will usually make the holding easy to find.

In the *Asahi* case, it is clear that the court held that the lower court could not properly exercise personal jurisdiction over the defendant, because the defendant did not meet the qualification of the "minimum impact" test.

It is important to note that there are typically two outcomes to a case: (1) Affirmed—meaning that the lower court's decision is valid; (2) Reversed and remanded—meaning that the lower court's decision is overruled, and the case is sent back to the lower court to be resolved applying the reasoning used by the superior court.

There is also a hybrid outcome, where a case is affirmed in part, and reversed in part. In such a case, the reversed portions will be remanded to the lower court to be resolved applying the reasoning used by the superior court.

The method I used above is known as book briefing. You can select your own color code (of highlighters) to use, so that you can easily dissect the case if you are called upon in

class. I suggest this method over using commercially prepared briefs, because the professors are aware of the "canned" briefs and will begin to ask detail oriented questions, which the "canned" breifs do not address.

I also suggest taking the time to read the cases yourself, because you need to develop the skill of case reading. Understanding case law is a critical component of the practice of law. Out in the real world, you will not be able to use "canned" briefs to incorporate precedence into your legal arguments.

Aside from your legal case books, there are other, electronic, sources for your case law. Both Lexisnexis and Westlaw have a case library. You can use the case citation to find the case, and can print it out. Most law schools provide their students with free Westlaw and Lexisnexis accounts. Furthermore, these electronic copies have detailed explanations of the reasoning and holdings in the case. They also highlight the rules.

I understand that there are times when one simply cannot read the vast amounts of cases that are assigned for each class, every night. Believe me, I was once in your position. That being said, I still suggest that you make every effort to dissect the case yourself, as this will make the reading faster, and easier.

I also suggest that you attempt to dissect some cases before you go to law school. Google provides a free case law search engine through their Google Scholar search. You can find cases either by entering a case citation, or by looking up a legal issue. (Even typing something as simple as "Contract" in the query will bring up case law. Remember, practice makes perfect.)

Chapter 2: The Art of Legal Writing.

Another important skill that you must develop is legal writing. This is a pivotal aspect of not only a law student's education, but also a lawyer's career. Writing will be the

main focus of the only grade you receive each semester. There is only one examination for each class a semester. Usually, that is the only grade that you will receive. Thus, it is critical that you develop the ability to write.

Just as there is a methodology for reading case law, there is also a methodology for legal writing. It adopts the same principles as reading. In fact, reading case law will help you hone your legal writing skills. The most important aspect of legal writing is organization.

I.*Legal Writing Structure.*

The structural organization of legal writing is much the same as the method for case law reading. That is, you want to organize your writing in the same manner that you read and dissect a case. Thus, you can use the IRAC method to structure your legal writing. However, I find it made my writing more powerful, and persuasive to use a variant of IRAC. The variant I used is the pneumonic CRAC: Conclusion, Rule, Analysis, Conclusion restated.

Applying this method will alert your professor to the argument that you will be making. The conclusion will include the issue, as the issue is the central legal question that you are attempting to resolve. Thus, your writing would begin something like this:

> *Bubba cannot legally enforce the contract in question because he did not meet all of the elements for making a valid contract.*

As you can see, the issue is clearly whether Bubba has a valid contract to enforce. Once you have stated the conclusion, you next move to the rule.

> *Under the common law, in order to have a contract three elements must be present: (1)is there an*

> *offer; (2) Was there adequate acceptance of the offer; and, (3) Was the acceptance supported by proper consideration?*

The rule sets up the test by which you will apply the facts. In any legal writing scenario, whether you are writing an exam answer, or even drafting a legal memo, there is a fact pattern which you must go through to spot the potential legal issues. Once you have determined the pertinent facts, and have stated your initial conclusion (thereby setting up the legal issue) and have stated the rule, you then apply the rule to the facts at hand. The Analysis and application stage is the most important stage in legal writing. It is even more important than your conclusion. This is because the analysis section is where you demonstrate your understanding of the law, by applying it to the facts at hand. Thus, a short example of a very simple analysis section would look like the following:

> *In the case at bar, Bubba did not create a valid contract, because he relied on a legal detriment that occurred before the contract was written. Past consideration is not valid for consideration of a future contract.*

The final stage of your legal writing is to restate the conclusion. This closes the discussion on the particular issue, and allows you to move on to the next issue. A restated conclusion would look similar to the following:

> *For the aforementioned reasons, that Bubba cannot rely on past consideration for current consideration of a contract drafted after the initial consideration was given; Bubba cannot legally enforce the contract in question, because he did not meet all of the requirements for creating a valid contract.*

It is important to note that you apply CRAC to the major issues, and then to each sub issue, always making sure to tie

it back into an analysis of the facts at hand. Therefore each issue will be thoroughly addressed.

II. *Methods of Adding Emphasis For Law School Exams.*

Law school exams are graded anonymously. That means that your professor will not know whose exam answers he is grading. You will be assigned a number that you use to identify your exam, and the professor will not know who the number belongs to. In theory, this is done so as to make the grading of the exams more egalitarian. (That is, the professors cannot play favorites on anonymous exam answers).

This means that it is important that you be able to emphasise the important aspects of your answers. You want to draw the professor's attention to the fact that this answer fully addresses the legal issues presented in his or her fact pattern. Thus, you can draw emphasis to the important points by bolding the most critical elements of the point you are addressing. For example:

> *In the case at bar, Bubba* ***did not create a valid contract****, because he relied on a legal detriment that occurred* ***before*** *the contract was written.* **Past consideration is not valid for consideration of a future contract.**

As you can see, the eye is instantly drawn to the bolded and underlined portions of the answer. This ensures that the professor immediately recognises what it is that you are trying to say.

Another important consideration for law school exam answers is organization. Neatly organized answers are easier to read. The easier the document is to read, the better your chances are for the professor not to miss the critical details that you included in your answer. Exam answers are evaluated based off of a rubric, which the professor goes down, seeing whether or not the answer addresses each of the points within

the rubric.

The most efficient and effective way of organizing your answer is to use topic headings. You can see that I use them in this book as well. I place a roman numeral before each topic that I write about. This allows the reader to see what is being written about, and helps guide them along your thought process. It will aid the professor in assessing your answer against his or her rubric.

Chapter 3: Socratic Method—Quest To Find the Hidden Ball.

Law school professors have a very different job than that of an undergraduate professor. The role of the law professor is to train the law student to "think like a lawyer". Thus, in most law schools the professor applies either the socratic method, or some modified variation thereof.

Therefore, law school classes rarely involve a straight lecture from the professor. Rather, the student is expected to have read the case work, and to be able to explain the case fully. The class is taught by the professor asking the student various questions concerning the case. This form of teaching can be done in different fashions. One of the favorite techniques of my Contract Law Professor was to pick one student, and ask that student questions for the entire class.

The professor will not state whether your reasoning is valid or not. In fact, even if you are answering the question perfectly, the professor will change the variables within the fact pattern and then ask whether your answer is still applicable. This technique is known as hiding the ball.

Usually towards the end of the class session, the professor will list the important elements that you were supposed to take out of the case. It is critical that you take notes when this happens, as you can rest assured that those elements will be on the exam.

The key to successfully traversing the socratic quagmire is by making sure you have gone through the cases using the

basic skill set that I laid out in Chapter 1. In doing so, you will begin to understand the thought process of the court, and will be better prepared in answering the professor's question, even when he or she is attempting to "hide the ball".

That being said, the ultimate goal of your reading should not be focused on "being able to answer the professor's questions in class". I say this because class participation rarely, if ever, has an impact on your final grade. The impetus of all your work should be understanding the rules from the cases, so that you will be able to apply them to the exam fact pattern and questions. After all, it is the exam that counts for the most points, whether it is or is not the only source for a grade.

Chapter 4: Outlining—Roadmapping the Cummulative Course To Achieve The Successful Exam Answer.

As I have stated numerous times throughout this text, law school exams are often times the only source of a grade that you will have for the entire semester. This means that the exams are cummulative, covering everything that you have learned over the semester.

Therefore it is important to organize the information that you have learned, and place it in an outline to aid you in memorizing the important "black letter law" which you will need to apply on the tests. Black Letter Law simply refers to the rules that you have pulled from the case law. They are the tests that you apply to the facts to determine whether a certain outcome will occur or not.

The best way to approach outlining the information that you have is to make the outline yourself. By that, I mean that you go to the table of contents of the book, type out what is contained in the table of contents, and then proceed to flesh the information out from the notes you took from class, and the rules that you highlighted in your case book.

Another technique I found useful was to find an outline that was already made. (online for instance), and to copy its

contents into the bare bones table of contents outline that you have drafted. Going through this process helps to engrain the information in your head, making it second nature to you. It also means that when you're taking the exam, the rules will be much easier to construct, as you have written them out in your outline.

Another great source for fleshing out the various topics in your table of contents outline is using professional outlines. When I say professional outlines, I mean sources of black letter law that are condensed. A great example are the Lexisnexis capsule summaries of specific areas of the law. By implementing these tools, you can create your own outline, and better prepare yourself for the exam itself.

Moreover, if you have joined Barbri (Which I will discuss in further detail in the next chapter), they will provide you with outlines they have prepared for your first year classes. My suggestion regarding professional outlines is not to simply read them. Rather, you should use them as a source of information, and implement their content into an outline you make yourself.

This is because the main purpose of creating an outline is to learn the material cold. Thus, going through the motions of actually constructing your own outline re enforces that process, and will better help you in retaining the vast amounts of information that you are trying to memorize.

Chapter 5: Understanding the Curve.

Law school grading is unique. Unlike undergraduate grading curves, law school grading curves are competitive. That is, each student is graded against his or her fellow students. Thus, you may have the right answer, but if it is not as well written as another student's answer, then your grade will be lower than that student.

The modern trend is to force the curve at a "B" level. That means that you have a "B" walking into the exam. Depending upon how well your answer is organized, and how well

you do compared to your classmates, your grade will either remain a “B”, improve, or worsen.

The key to surviving in such a hostile environment is to not attempt to compete with your fellow classmates. Rather, your goal should be to improve your base of knowledge, in a sense, compete against yourself. In the long run, your law school grades will not matter. They only matter for your first job, and even then, not substantially.

Thus, the best advice that I can give, concerning the curve, is to know that there is one; and to not spend much time worrying about it. You will already have your work cut out for you, no sense adding to your stress levels.

Another important piece of advice that I can offer regards study groups. During the first year, study groups can be beneficial for their members. That being said, the stress of competition, and the desire to “outperform” one another can make these study groups become contentious.

If you can, try and find a group that is cohesive, and willing to work well together. Otherwise, the study group itself may become a distraction, and hurt you rather than help you.

Chapter 6: Approaching Your Professor After Class.

Many of my classmates during law school were afraid to approach the professor after class, at least during the first year. This is because the professors can be quite intimidating. They put on a facade of toughness, in order to force the students to develop a thick skin, and to learn to think quickly on their feet. That being said, the professors are approachable after class, if you have a question.

The pace of law school courses are rapid. The professor will not take class time to stop and explain a topic in further detail. If you find that you are struggling to comprehend the particular topic at hand, your best bet is to visit with your professor during his or her office hours, and

ask about the specifics which you are confused over.

You should be sure that you are asking serious questions only. Do not simply approach the professor and say "Professor, I don't understand anything about Torts!". There is no succinct answer that the professor can provide to such a question; and, it will irritate the professor.

Rather, you should approach with a specific question in mind; for instance: "Professor, I am a bit confused about Res Ipsa Loquitor, is that a Tort theory? Or is it a rule of evidence applied for asserting negligence where there is no physical evidence?" That sort of question is the type that professors are very willing to answer, after class.

Another important consideration, regarding approaching your professors after class, is that some professors will provide those students who ask for it, past exam questions. If your professor offers such questions, you should not hesitate to get a copy of the questions and to practice answering them.

Better still, some professors will even read over your attempts to answer those questions, and give you feedback. This is critical. If the professor offers such, you should take the professor up on the option. It will allow you to see where you need improvements, and can help you craft a better answer. Remember, there are no midterms, by which you can judge your performance.

Chapter 7: Register for Barbri Your First Year, and Career Services.

I cannot stress enough the importance of registering for Barbri your first year. Barbri is a bar prep program that you will utilize after you graduate from law school to prepare for the bar exam. The dirty little secret of law school is that it does not actually prepare you for the bar exam. Rather, it is three years of intensive work to get a decree, which then allows you the opportunity to take the bar exam.

To actually prepare for the bar exam, you will need the

help of a bar prep service, such as Barbri or Themis. Both of these programs are not cheap. However, if you can enroll in either one your first year, it is cheaper than waiting to join your final year. Furthermore, they lock you in at the cheaper rate, and supply you with books which contain course outlines for your first year classes, which you can implement in creating your own outlines.

I didn't realize this my first year, so I missed out on locking in the low rate, and had to make all of my outlines from scratch. Consequently, my first year was much harder for me than it had to be. The goal should be to make things as easy for yourself as possible, because the work itself will not be easy.

Another important tool for you to utilize is your career services office. This is a service provided by the school that helps you prepare resumes and cover letters for prospective summer internships. This can be highly beneficial for you when it comes time to finding that summer internship, which will gain vital experience for you.

Moreover, the career services office has connections with local law offices. That means that they can help you network and reach out to prospective employers, including firms that may hire you after you graduate. This is such a vital opportunity that it would be unwise to pass it up.

Chapter 8: Conclusion.

I know that I have pelted you with a lot of information. I know that you will still feel nervous. However, I want you to know that this undertaking, though grueling, is completely doable. However, it is easy to get caught up in the moment, and not attend to your personal health.

It is important that you still make time to engage in your hobbies and relax. The best bit of advice I ever received, concerning this, was to take one day a week off. Do not open a law book during that day, do not write during that day, do not even think of law on that day. Simply take the

time to exercise and engage in your hobbies. This will help prevent a mental breakdown, and will help keep you fresh for your classes.

The most important thing to remember is, many lawyers have gone through the same thing you're about to experience, and many more will experience the same thing. It may seem impossible at first, but you can do it. I want to congratulate you again, on making the decision to enter into the legal profession; and I hope that this little guide can help make that journey just a little bit easier. Best of luck!